

# THE COURT REPORTERS BOARD OF CALIFORNIA

## JOINT LEGISLATIVE SUNSET REVIEW COMMITTEE 2000 SUNSET REVIEW REPORT

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*Overview of the Board's Regulatory Program, Board's Response to Issues and Recommendations from Prior 1996/97 Sunset Review, Background Paper for the 1999 Public Hearing, Board's Response to Issues and Recommendations from 1999/2000 Sunset Review, and Final Recommendations of the Joint Committee and the Department of Consumer Affairs*

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# **PART 1.**

## **Court Reporters Board of California**

### **BACKGROUND INFORMATION AND OVERVIEW OF THE CURRENT REGULATORY PROGRAM**

#### **Description and Responsibilities**

The Court Reporters Board of California (Board) regulates the court reporting profession through testing, licensing, and disciplining court reporters, who use the title designation Certified Shorthand Reporter (CSR), commonly known as court reporters. Currently, there are nearly 8,000 CSRs, and approximately 3,500 belong to professional associations.

#### **A Brief History**

Established in 1951 by the Legislature to protect consumers from incompetent practitioners, the Certified Shorthand Reporters Board, now known as the Court Reporters Board of California (Board), tests, licenses, investigates and disciplines members of the court reporting profession. In California, a person must be licensed to work as a reporter in state courts or as a deposition reporter.

Until the 1960s the Board allowed only certified shorthand reporters to own and operate companies offering court reporting services. However, when no statutory authority supporting that prohibition could be found, the practice ceased, and in 1972, the Board began registering shorthand reporting corporations. That process was rescinded by Assembly Bill 2743 (Chapter 1289, Statutes of 1992) when the Board decided that the registration duplicated the filing required by the Secretary of State's Office, provided no additional benefit or consumer protection, and was an unnecessary expense for businesses. Also in 1972, the Board's authority was expanded to give the Board the ability to recognize court reporting schools and to set minimum curriculum standards for court reporting programs.

In the past, the Board also regulated the rates free-lance reporters (those not employed by courts) could charge. In a compromise package with the profession, the Legislature in 1981 deregulated the rates and created the Transcript Reimbursement Fund (TRF), a special fund paid for by a portion of the court reporters' licensing fees to be used to reimburse CSRs for transcripts produced for indigent litigants in civil cases. To create the

TRF, licensing fees were initially increased from \$40 every two years to \$125 the first year, and \$60 the second year. Subsequently, the fees were increased to \$80 and CSRs currently pay an annual fee of \$100. A reduction of the annual fee is anticipated. Under the program, the Board has paid more than \$ 5 million from the fund, which maintains a minimum annual balance of \$300,000.

Prior to January 1, 1983, state courts had been allowed to use non-certified reporters if they could demonstrate that a certified reporter was not available. But, the Legislature outlawed that practice and since then the use of non-certified reporters in state courts has been prohibited unless the reporter was appointed to the position of official reporter prior to the January 1, 1983 date.

### **Board Composition**

The Board is composed of five members, two of whom are licensed CSRs and three of whom are public members. The Governor appoints the two-licensed member and one public member, while one public member is appointed by the Speaker of the Assembly and another public member is appointed by the Senate Rules Committee. Any licensee who has been practicing for a minimum of five years is eligible to be appointed to the Board, but public members are prohibited from having had any involvement in the profession within five years of their appointment. All serve four-year terms, and may be reappointed for one additional term.

While attorneys, judges, and court administrators comprise the majority of consumers of court reporting services, there is no longer a requirement that any of the public members be from those fields. In 1978 the Legislature eliminated the requirement that public members be attorneys or judges. However, there has been an attorney on the Board over the last eight years. There are currently no vacancies on the Board, and the length of time to get reappointments has ranged from 60 days to 18 months.

Under Business & Professions Code (B&P), sections 8007 and 8008, the Board has various powers and duties. Although the Board does not license court reporting schools, in 1972 it was given authority to specify a minimum curriculum for court reporting schools.

The Board's legislative mandate is to protect California consumers by ensuring that CSRs possess a minimum level of competency, and by disciplining licensees who do not meet their legal mandates. This mandate is the basis of the Board's mission.

## **Board Functions and Operations**

The Board operates according to the mission and vision statements indicated below, as well as its goals and objectives:

"The Court Reporters Board of California's mission is to provide users of the judicial system access, consumer education, and consumer protection through quality assurance in the qualifications, performance, and ethical behavior of court reporters."

Our vision is for judicial system consumers to be free from concerns relating to the accuracy and timely delivery of transcripts. We are committed to maintaining the highest standards of excellence through:

- demonstration of competence through validated testing of diversified applicants
- timely issuance of licenses to qualified applicants
- advancing licensees' self-knowledge with changes in technology and law
- impartially investigating and promptly resolving violations of regulations or law
- incorporating changes in technology into our regulatory program after those changes have been fairly assessed and determined to be in the best interest of the consumer.

The Board's general goals and objectives were developed as part of its strategic planning. They include:

- increasing the frequency of court reporter exams for greater entry into the marketplace
- providing more timely and relevant consumer education
- enhancing enforcement efforts
- formally reviewing transcript production standards, and
- analyzing the technological changes affecting the court reporting profession

Disciplinary matters, committee reports, legislation, licensing issues and examination policies and procedures are considered and acted upon by the Board at its meetings which are generally held six times a year. As allowed by the Bagley-Keene Open Meetings Act, executive sessions are held to discuss disciplinary matters, and when necessary, examination security procedures or items. All other matters are discussed in the public session.

Disciplinary action taken in closed sessions is published in the Board's quarterly newsletter and the two state association publications, and sent to the bar associations in each county when the action is final. Information concerning examinations is announced in open session, sent to schools in a memorandum, and provided to exam applicants as appropriate.

Public participation is encouraged through the use of specialized mailing lists which are used to provide notice to the primary consumers of court reporting services such as attorneys, bar associations, court reporting schools, licensees, and any persons indicating an interest in the Board's activities.

In addition to attending the six meetings, most Board members spend an average of a half day per month studying issues, and one day every other month participating in other functions such as visits to court reporting schools, or to attend association meetings. However, the time spent varies when speaking engagements, writing articles, and participation in other consumer outreach is required.

Board members receive per diem reimbursement rates of \$100 per day when conducting Board business, as well as the usual state allowances of up to \$79 per night for a hotel, \$6 for breakfast, \$10 for lunch and \$17 for dinner. Members are reimbursed for travel expenses incurred while conducting board business that has generally totaled approximately \$4,000 annually.

The Board produces an annual report to the Department of Consumer Affairs, which details the number of licensees, complaints, disciplinary actions, and outcomes, among other items. This is provided to the Legislature and members of the public to provide a resource for reviewing the accomplishments of the Board.

### **Funding and Organization**

*The Board is completely funded by licensing and examination fees collected from applicants and licensees engaged in the court reporting profession, and receives no monies from the state's General Fund.* Annual average operating budget is approximately \$515,000 of which nearly \$235,000 is allocated for personnel services. License renewal is the Board's largest source of revenue and accounts for more than \$750,000 of the \$854,725 FY 1999/00 anticipated revenues. The Board's current fee schedule is as follows:

- exam applicant fee \$40
- initial license fee \$50 or \$100
- annual license renewal fee \$100

As required by law, a minimum of \$300,000 of the total revenue is placed in the TRF and the remainder supports the annual appropriation, or is held in the Board's reserve account.

Expenditure categories include examination, licensing, enforcement and TRF costs. Enforcement is the largest expenditure category in the Board's current budget at a net cost of \$330,033 or 63 percent of program expenditures.

Revenue and expenditure categories by program component for the last four years are provided as Appendix A. The documents labeled "Schedule of Revenue Sources" and "Schedule of Expenditures by Program Component" were interpreted using actual

revenue and expenditure documents used in preparing the Governor's budget over the last four years.

A Board organizational chart with the applicable staff assignments by function is Appendix B. A detailed summary of position titles, authorized positions, and actual salary expenditures for the past four years is included as Appendix C.

### **Licensure Requirements**

The purpose of the Board's licensing program is to protect the welfare of California consumers who are involved with the judicial system. The Board ensures that its licensees possess the skills and abilities necessary to properly practice as competent court reporters. Licenses are renewed annually in the birth month of the licensees who must provide their name, address, license number and a \$100 payment to cover the renewal fee. Before issuing the renewal, staff reviews the information provided, makes any required changes, verifies the proper fee, and issues the license.

While licenses expire the last day of the holder's birth month, there is a 30-day grace period during which no delinquent penalty fees are charged. A license may remain delinquent for up to three years, if the licensee is not working as a CSR in California, and may be renewed any time during that period by completing the information and paying the annual fee plus a delinquent penalty of \$50. However, if the license is not renewed during the three year period, it cannot be renewed, restored, reinstated or reissued, thereafter, according to section 8024.5 of the B&P Code.

The following table provides a four-year history of the Board's licensing program:

**Table 1: Licensing History**

Licensing History	FY95/96	FY96/97	FY97/98	FY98/99
No. of Applicants	1016	951	949	728
No. Licensed	470*	269	282	161
No. Denied	14	6	1	4
No. Active	7,733	7,886	7,892	7,919
No. Renewed	7,263**	7,615**	7,610	7,758

\*Incorrectly reported as 389 in DCA Annual Report.

\*\*As previously reported, these figures included the No. (newly) licensed.

Out-of-state applicants are prohibited from practicing the court reporting profession until they pass the California exam and are issued a license. The Board does not recognize licenses from other countries.



## **Inactive Licenses**

The Board does not have an inactive license category. There were some 600 court reporters who were grandfathered into the profession in 1951 when regulation began. Only 16 of those remain active and they are included in the renewal category. If an applicant completes all the requirements at a recognized court reporting school or program, admittance to the exam would only be denied if there is a criminal history problem or failure to submit a timely application.

## **Examination Requirements**

The primary objective of this Board is to ensure that licensees have at least a minimum level of competency to make certain that consumers receive quality service, and as a result, proper judicial review. Examinations are conducted in May in Northern California and in November in Southern California. More than 300 applicants take the test each time, but all must meet certain requirements and minimum qualifications before being admitted to the exam. The Board does not grant reciprocity to any state or country. Applicants for licensure as CSRs in California must meet all of the following requirements:

- 18 years of age or older;
- be a high school graduate or have the equivalent;
- successfully complete written examinations in English, including grammar, punctuation and vocabulary with a minimum grade of 70 percent, plus a professional practice exam covering legal terms, medical terminology, and law with a minimum grade of 75 percent;
- successfully complete a practical exam involving the reporting of dictated material taken from an actual court or deposition proceeding, which is read live at 200 words per minute for 13 minutes by four readers;
- successfully transcribe the designated 10-minute portion of the exam within a three-hour period, and achieve a minimum 97.5 percent accuracy rate.

In addition to meeting the above criteria, applicants must qualify to sit for the exam through one of five methods. Most applicants qualify to take the CSR exam by completing a training program through a recognized California court reporting school. These programs are typically 3-1/2 to 5 years, full-time, featuring Board-approved curricula, and include a required apprenticeship-type, unpaid training for 50 hours (Regulation 2411).

In addition, under B&P code section 8020 applicants for licensure may meet one of the following four methods of qualifying for licensure:

- verification of at least one year of work experience submitted on official stationery of the employer(s)
- verification via a copy of the State Personnel Board's pass letter indicating a passing grade on the California State Hearing Reporters examination
- copy of certificate of proficiency or merit from the National Court Reporters Association originally issued within the last five years
- copy of valid Certified Shorthand Reporters certificate or license from a state other than California originally issued within the last five years.

Qualifying work experience is not required and seldom is completed under the supervision of a licensed CSR, or other licensed professional, as most reporting assignments are conducted with one reporter in various remote locations.

CSR applicants from another state can qualify to take the California exam by having one year or more of experience, or a license from certain other states. While the National Court Reporters Association has considered a national uniform model for licensure, primarily using California's law, none has been developed or implemented as yet.

A variety of basic information is required from exam applicants as indicated on the application form, submitted as Appendix D, including the nature and length of any work experience that can be used to establish the minimum one year of qualifying work experience. Level and location of educational background is also requested as is information regarding court reporting certificates from other organizations or states, and any criminal convictions. Supporting documentation via copies of certificates is required and work experience must be verified on the official letterhead of the employer.

In order to help prepare the applicants for the impending exam, the Board provides a packet of information (Appendix E). It contains instructions on where, when, and what time the exam will be held, as well as what items to bring, equipment and identification required, and how the exam will be conducted. The Board also sends applicants a study guide, which includes sample questions.

As the applications are received, the exam/licensing coordinator reviews them to make certain they are complete, the fee is included, and that the applicant meets one of the four exam qualification methods. Fingerprint cards provided by applicants are forwarded to the Department of Justice and the Federal Bureau of Investigation to determine if the applicant has been convicted of any crimes either in California or any other state. The application also asks if the applicant has been licensed in another state. If a conviction has occurred, the applicant is required to provide copies of court documents indicating the offense, the sentence and whether the terms have been met. However, falsifying an

application for licensure examination is grounds for denial, suspension or revocation of a license in accordance with sections 475, 480 and 8025 of the B&P Code. If an applicant uses an out-of-state license to qualify for the California CSR exam, the exam/licensing coordinator verifies the information by calling the state agency that issued the license.

In order to provide the best customer service possible, the coordinator contacts the applicant by telephone to gather missing information if the application is incomplete. If the applicant appears to have failed to meet the qualification requirements, or there is a criminal issue, the application is referred to the Executive Officer for review and action.

The Executive Officer will determine whether the applicant meets the qualifications or not. If there is a suspicion or indication of criminal activity, the Executive Officer may consult with legal counsel or refer the matter to the Division of Investigation for information or documentation. The applicant is prohibited from taking the exam if there is an unresolved eligibility question or an ongoing investigation.

Exam applications are mailed approximately 80 days prior to the testing date and must be returned to the Board office at least 45 days before the exam date. Over the last four years, the average time between application submission and the exam date has been 35 to 45 days. The applicants' exam schedules are mailed to them approximately two weeks prior to the exam.

Results are mailed approximately six weeks after the exam. If the applicant passes, an original certificate fee of \$100 and a completed form are required to be submitted within 120 days, whereupon the license number is issued. The original certificate fee is reduced to \$50 if the license will expire in less than 180 days. In order to accommodate the successful licensees, the Board has historically provided the license number by telephone. This allows them to begin work within two to three days after the Board receives their license fees instead of waiting until the license actually arrives, which typically takes six to eight weeks.

### **Examination Process**

The practice of court reporting requires knowledge of the English language and its rules, the law and judicial system, and the ability to write fast and accurately on the stenotype machine. These three components are covered in the semi-annual CSR license examination.

The exam is based on a Validation Study performed by OER in 1995 (included as Appendix F) were completed in November, 1995, and are redesigned every five years in accordance with normal examination validation procedures. The DCA's OER conducted an occupational analysis for CSRs and the Board adopted the validation report at its January 1996 meeting. The results of the DCA occupational analysis provide the basis for the CSR Test Plan. Currently, another occupational analysis is planned, pending approval of the BCP for FY 2000-2001.

The CSR exam is a three-part examination. Part I is English, and Part II is Professional Practice, which consists of legal and medical terminology as well as knowledge of the law. Both are multiple choice type tests consisting of 100 items each. Part III is a practical demonstration of dictation and transcription skills.

Prior to the exam, applicants are required to provide two passport-style photographs with their applications. One is attached to the exam scheduling notice that is returned to them before the exam. The other is attached to the Board's file. At the test site, the proctor compares the photo on the exam scheduling notice to a second photo identification presented by the applicant, such as a driver's license, as well as to their physical appearance.

If there are discrepancies, the proctor resolves those with the applicant, but if there is reason to believe the person attempting to sit for the exam is not the person in the photo, Board staff is notified. If the staff person present at the site is unable to establish identity, the applicant is asked to leave until a school representative known to the staff person can be located to identify the applicant. Each applicant is issued an identification number which appears on their exam scheduling notice and is then applied to all portions of that applicant's exam in order to assure anonymity.

In written material sent prior to the exam and during the oral instructions at the actual exam site, all applicants are warned that the consequences for those cheating on the test are expulsion from the exam and a fine up to \$10,000. This offense is a misdemeanor under B&P Code, section 123.

Throughout the test, proctors observe the candidates, collect and distribute test booklets and act as continuous observers. Seating is designed to provide enough space between candidates to deter copying.

Applicants have three years, or seven test cycles, to pass all three parts of the exam before they are required to take the entire exam again. They may take or retake the unpassed portions every six months. During the three-year period, they are required to take only the previously unpassed portions of the exam.

### **Exam Design and Development**

Items for the two multiple choice portions of the exam are developed by committees comprised of court reporters and school instructors under the guidance of the DCA's OER staff. The practical dictation portion is developed anew for each test cycle from actual transcript material taken in depositions or court proceedings. Using the transcript material modified by the procedure outlined below, four live readers dictate at the rate of 200 words per minute for 12-to-13 minutes. In addition to writing the material on their stenotype machines, examinees are required to transcribe the notes of the last 10 minutes of the dictation within a three-hour period.

In order to ensure that the dictated material is entry level, the Board uses the following procedure:

- material collected from working reporters as possible test material is reviewed to determine if it appears appropriate by a CSR who is a current or a former Board member who is familiar with the exam process;
- if the material appears appropriate, it is marked in 25-word increments in preparation for dictation, and syllables are counted to comply with the Board policy of no less than 130 and no more than 150 syllables in each 100 words. This ensures that all parts of the exam are of similar or equal difficulty rather than very difficult in some spots and very easy in others; and
- the proposed test is read by the readers while one or two CSRs who have been licensed within the preceding 12 months, write the test on their stenotype machines. In addition, the readers, or the participating CSRs who write the pre-test, can suggest changes, or advise whether or not to use the test at all, if it is too difficult, or too easy. This process is designed to ensure that the exam material replicates the level of difficulty anticipated by entry level reporters.

The two multiple-choice portions of the exam are answered on scantron sheets and are graded by the DCA's OER. Board staff grades the transcript portion of the test.

Based on advice and direction from the OER, the standard for passing the exam is determined by Board policy and outlined in regulation. The results are mailed to applicants from the Board's Sacramento office, and are provided by telephone one week following the mailing of results to all candidates, in order to provide customer service. This allows successful candidates to enter the work force at the earliest possible moment.

Under B&P Code section 8023.5, applicants from other countries may be required to take an additional English examination, if they come from a country that is non-English speaking. However, no applicants have come from such countries and thus have not been required to take additional English examinations for more than 15 years, if ever.

Fairness and security are the two major concerns in the administration of the CSR exam. The Board is exploring various methods of administering the exam, including replacing live readers with videotape or other methods using emerging technology. The Board is developing plans to allow applicants to take the skills portion using computerized equipment as they do in real practice. (See Part II.)

In the past, the Joint Committee has considered the possibility of issuing a license based solely upon graduation from an approved educational institution in lieu of a state-administered exam. However, the Board believes this would not promote consumer protection and could create barriers for entrance into the reporting field because:

- there would be no method of ensuring that school graduates had established the entry level knowledge, skills and abilities to practice in a safe and competent manner. Unlike the Board exam, court reporting school examinations are not based upon a job analysis or a validated test plan.
- candidates who could not afford to attend a school program would be prohibited from entering the profession, and
- if only school graduates were allowed to enter, eligibility for those with work experience, an out-of-state license, or an NCRA certificate would also be excluded.

### **Court Reporting Schools**

Under the authority of B&P code section 8027 and California Code of Regulations, section 2411, the Board has the authority to "recognize" or approve court reporter training schools, but does not accredit them. Accreditation is a peer-review process to determine adherence to educational standards promulgated by an accrediting organization, which is recognized by the U.S. Department of Education. While accreditation is also the gateway for admission to the federal financial aid programs, the maintenance of quality education is its primary purpose.

In 1996, the legislature passed a bill sponsored by the Board to ensure the qualification of instructors at court reporting training schools. The process includes site visits to support the desired outcomes and consists of a review of school programs including:

- curriculum
- faculty qualifications and numbers
- facilities used, and
- student records

In addition, the program director completes a pre-review manual, which is reviewed by the Board's Executive Officer. He verifies the information from the school during the site visit, which also includes observations of classes in progress, as well as interviews with students and faculty staff. Student files and records of satisfactory progress are checked as are instructor qualifications, recruiting materials, and claims presented to students.

Visits can be conducted on a scheduled or unannounced basis. Scheduled visits are used to evaluate support for continued recognition of programs that comply with the respective law and regulations. If areas of non-compliance are found during a visit, the discrepancies are identified and corrections are discussed with the director. A reasonable time to correct the deficiencies is allowed.

Unannounced visits are made when the Board suspects that significant problems exist within a program. Consumer complaints, information or evidence from the school or another state agency may spark the unannounced visits, which allow the Executive Officer to observe the program in its actual operating mode.

Like many other "recognized" training programs, accreditation or approval is often granted by a number of agencies, which all look at various areas of a program. Federal accrediting agencies generally ensure compliance with federal regulations for the purpose of establishing eligibility for federal funds. Often this eligibility includes approval by the Bureau for Private Postsecondary and Vocational Education (BPPVE), the rate of defaulted student loans, accounting records, and student complaints.

The Board has been instrumental in promoting joint program site visits with the BPPVE, the Student Aid Commission, and occasionally, the accrediting agency. Since Board, Council, and Commission regulations are complimentary, each agency addresses critical parts of the educational offering with minimal to no overlap. The process facilitates the identification of myriad areas of potential noncompliance.

While the Board ensures that California court reporter training programs comply with statutes and regulations for recognition, it has no authority to review private accreditation standards to ensure that they are not unreasonably restrictive or anti-competitive.

Recognized programs offer a course of instruction that is generally completed in 42 to 60 months, or three and a half to five academic years. Full-time and part-time programs are recognized and include a minimum of:

- 215 hours of English
- 125 hours of Medical terminology, physiological and anatomical systems
- 175 hours of law and legal terminology
- court and deposition procedures
- ethics of the court reporting profession
- 60 hours of transcript preparation, and
- 50 hours of apprenticeship training

The purpose of the required academic education and apprenticeship is a thorough preparation of the enrolled student to produce verbatim records of legal proceedings. The student must understand basic anatomy and physiology, legal terms and word derivations. Without this foundation, the student likely cannot grasp and understand what is being discussed during the proceedings. The student who has extensive vocabulary and basic scientific knowledge is better prepared to understand and reproduce verbatim the spoken word and therefore better able to provide an accurate transcript for the consumer. Reporters must be adequately trained so they can produce accurate records regarding virtually *any* subject. This requirement makes defining "entry-level" more difficult than for most other professions, especially because court reporters work without direct, on the job, supervision.

## **Quality of Training**

There is no question that there are many excellent court reporting schools that provide a fine education. However, in the last four years the number of schools has dropped dramatically due to severely declining enrollment of students in the court reporting profession. Currently there are only 22 court reporting schools in the state, down from 37 in 1994. In addition, some of these remaining schools are struggling to survive with enrollments down by approximately 2/3 over the last four years. The Board believes, as do some court reporting school faculty and administrators, that schools planning on closing their doors may prematurely "qualify" students to take the CSR exam to clear their enrollments before closure. As a result, the premature qualifying, and some of the training being provided by the court reporting schools in California, may have been a factor in the high failure rate on the CSR test in the last two years. However, it is by no means the only suspect. As discussed in Part II of this report, premature qualifying has been placed on a list of several complex factors that have been identified and analyzed as potential suspects in CSR pass rate volatility.



## **PART 2.**

### **Court Reporters Board of California**

#### **BOARD'S RESPONSE TO LOW EXAM PASS RATE ISSUE AND PROPOSED RECOMMENDATIONS**

*Issue #1: Provide an assessment of all of the possible causes of the low pass rate for the CSR examination and make recommendations to improve the pass rate and education of shorthand reporters. The assessment shall be done in conjunction with schools providing court reporting training programs, the Bureau for Private Postsecondary and Vocational Education, and the Office of Examination Resources. The Board shall present a plan to offer both the written and dictation portions of the licensing examination more than twice per year, and substantiate any need to increase the examination fee.*

#### **Scope of Inquiry**

Over the past 18-months, the Board has been working with Dr. Norman Hertz and his staff at the Department of Consumer Affairs' Office of Exam Resources (OER), administrators of court reporting schools in California, and the Bureau of Private Post Secondary and Vocational Education (BPPVE) to analyze and identify possible causes of the low pass rate on the CSR exam.

Official inquiry by the Joint Legislative Sunset Review Committee (Joint Committee) and the Board began after the overall pass rate on the CSR exam dropped below 30 percent on the May test in 1996 and on both tests in 1997. The rate then shot up to more than 45 percent in May 1998 and plunged again to slightly more than 18 percent on the November 1998 test. The rate then soared to more than 56 percent on the May 1999 exam. The low pass rate and its volatility have remained a concern for the Board, court reporting schools, exam experts and the Joint Committee.

As a result of discussions and meetings, a research team was assembled that included Board Executive Officer Rick Black, Dr. Hertz of OER, Steven Wittmann of the BPPVE, Ned Branch, director of Bryan College-San Francisco, Jean Gonzalez, president of South Coast College of Court Reporting in Anaheim, Donna Philp, program director at Argonaut Court Reporting in Sacramento, and Kate McGuire, CRBC consultant. The team pursued a variety of activities, including

- developing and administering a survey of exam takers;
- querying court reporting school administrators about emerging trends and other issues affecting the training of court reporters;
- interviewing court reporting firm owners and court administrators about the abilities of new CSR licensees, hiring preferences from specific court reporting schools, and whether current training adequately meets the demands of the marketplace;
- analyzing Board pass rates from a variety of angles including by fiscal year, individual test, and each of the three segments of the test;
- analyzing pass rates of other occupations with skills type examinations;
- analyzing pass rates of the National Court Reporters Association, and some other CSR states;
- interviewing executive officers at boards with skills tests and volatility in their pass rates about causes and remedies;
- interviewing NCRA officials about the volatility in their pass rates, causes and remedies;
- analyzing the administration of the CSR exam from numerous angles, including the physical seating arrangements and room accommodations;
- analyzing test writing methods, pre-test evaluation processes, and post-test evaluation processes, including item analysis;
- considering statistical impacts of grading structure;
- analyzing pass points and their origins;
- evaluating training methods and exam qualifying practices at court reporting schools;
- initiating a new job analysis to determine if current training and testing are keeping pace with the marketplace, and
- researching the feasibility of using new technologies in the testing process.

While complete results of all of the items and projects underway are not yet available, it is already clear to the research team that there are multiple causes for the current decline in CSR exam pass rates.

### **Assessing Possible Causes of Low CSR Exam Pass Rate**

#### **A Historical Look**

As a first step in attempting to identify the possible cause or causes of the low CSR exam rate, the research team decided to look at exam pass rate data over time. The team believed that it could be beneficial to plot the movement of pass rates over time to see if any patterns could be discovered. And if patterns did emerge, what were the variables and are they comparable in any way to current circumstances.

Using data from the 1980s to the present, there are no clear patterns. See Appendix G. However, several anomalies occurred which did account for some of the volatility during previous years. For example, at one of the tests in the mid-1980s, 111 of 500 applicants qualified to take the test because they held licenses in the states of Idaho or Oklahoma. All 111 of those applicants had been schooled in California, but had been unable to qualify at their schools. So, they traveled to Idaho or Oklahoma where the testing standards were very low, passed the tests, and became licensed there. Of those 111 applicants, only four passed the California exam, and the impact on the pass rate was enormous. The 111 out-of-state licensees represented almost 20 percent of the entire testing population at that exam and had a pass rate of 3.6 percent (four divided by 111). As a result of these massive failures by applicants from Idaho and Oklahoma, the Board voted to stop accepting licensees from these two states. However, no other significant anomalies were found that could shed light on the current low pass rate.

A table indicating the number of examinees and pass rate for all candidates and for first-time candidates over the last six years is shown below.

**Table 2: Exam Pass Rates**

<b>Month &amp; Year</b>	<b>Total Examinees</b>	<b>Percent Pass Overall</b>		<b>First-Time Examinees</b>	<b>Percent Pass First-Time</b>
<b>1995</b>					
May	605	22.98%		173	34.10
November	591	51.61%		193	61.66
<b>1996</b>					
May	425	44%		66	92.42
November	505	39.21%		199	41.71
<b>1997</b>					
May	446	15.92%		180	18.89
November	477	14.05%		143	15.38
<b>1998</b>					
May	472	44.92%		125	38.40
November	325	18.15%		122	23.77
<b>1999</b>					
May	373	56.03%		127	56.69

As indicated by the above table, until 1997 the pass rates on the CSR exams were near or above the 30 percent pass rate among first time takers and consistently so. While the Board creates a new test for each exam, it has followed essentially the same process for several years. This sudden decline has been a puzzle to the Board and the Joint Committee and has led the research team to look in assorted directions to seek its causes, as well as possible remedies.

### **A Comparative Look**

As part of the search for causes, the research team examined the pass rates on other skills type exams, and on the skills portion of the Registered Professional Reporter (RPR) test administered by the National Court Reporters Association (NCRA). Rates on CSR exams in some other states were also reviewed. The objective of this inquiry was to determine if these exams had similar volatility in their pass rates. The NCRA tests both students and working reporters. The results on the skills portion for the calendar years of 1997, 1998, and 1999 are shown in the table below.

**Table 3: RPR Pass Rates**

<b>Month &amp; Year</b>	<b>Reporters Percent</b>	<b>Students Percent</b>
<b>1997</b>	<b>Pass</b>	<b>Pass</b>
May	42.5%	17.9%
November	34.7%	25%
<b>1998</b>		
May	41.4%	18.6%
November	25.1%	4%
<b>1999</b>		
May	38%	16.3%

As indicated, the pass rate for students on the RPR skills exam were consistently lower than California examinees. Similar results occurred on other state CSR exams. Listed below are pass rates on tests in 1998 and 1999 in several states that responded to our request for information.

**Table 4: Pass Rates In Other States vs. California**

<b>Month &amp; Year 1998</b>	<b>CA Percent Pass</b>	<b>Illinois Percent Pass</b>	<b>Iowa Percent Pass</b>	<b>Michigan Percent Pass</b>	<b>Oregon Percent Pass</b>	<b>Texas Percent Pass</b>
January					8%	28%
February						
March			9.52%			
April		19%		7.5%		27%
May	52%					
July						31%
August		12%			12%	
September			41.66%			
October				6%		44%
November	18.15%					
December		14.5%				
<b>1999</b>						
January						21%
February					7%	
March			26.3%			
April		8.8%		10%		33%
May	54.96%					
July				7%	8%	41%
August		6%				

Like California, several states' tests fluctuated significantly, and although Texas experienced less volatility, three of seven tests had pass rates below 30 percent, and two were barely above 30 percent. Overall, the other states consistently had low pass rates the last two years. Again, this may be an indication of the difficulty of administering skills tests, and California's volatility may be more typical than previously believed.

The team's research also showed that three of six exams at four boards under the Department of Consumer Affairs did have some volatility in their exam scores. The Acupuncture Board and the Veterinary Medical Board, which also administers the Registered Veterinary Technician exams, experienced drops in their pass rates on several occasions.

In discussions with the executive officers at the various boards, however, the CRBC found that much of the volatility was temporary. It was primarily attributed to two factors; first, the various boards changed their scoring method from a fixed pass point, as used by the CRBC, to one using criterion referencing, as recommended by OER. Second, the learning curve of the evaluation committee members took time to stabilize when the boards changed their scoring method.

Unfortunately, during these discussions, no new issues were found that could be possible contributing factors to the declining pass rate. The research team determined that a meaningful comparison to other boards or examinations could not be made since each has its own uniqueness.

### **A Statistical Look**

Dr. Hertz also pointed out that the method used to calculate the pass rates on the CSR exams will statistically degrade the overall rate. Each of the three segments in the test--English, Professional Practice, and Dictation and Transcription, are assigned a pass point. An overall rate is then calculated using the results of all three parts of the exam.

Analysis also shows that the pass rates on the English and Professional Practice portions of the test have always been above 60 percent and have been consistently above 70 percent. It is the Dictation and Transcription (skills) portion of the exam that has historically posed the pass rate dilemma. This appears to hold true in virtually all licensing programs. As a result, the research team focused primarily on that portion of the test.

### **Reporter Education and Training**

#### **A Look at Court Reporting Schools**

Even though the Board makes site visits to schools to verify that they comply with all requirements, it has very limited authority, primarily over the minimum curriculum requirements. What is needed is greater coordination between the Board and the BPPVE, or other agencies that have approval authority over the school's operations, especially community colleges. However, over the last 18 months, the BPPVE has been involved in a major restructuring and reorganization due to sunset and reassignment to the Department of Consumer Affairs. As a result, site visits have not been made.

Likewise, there appears to be a gap in the oversight of court reporting programs at public institutions. Typically, the Community College Chancellor's Office approves entire departments and schools, but has not coordinated visits with the Board. Neither they nor the Western Association of Schools and Colleges (WASC) do not look at small programs like court reporter training when they review a community college. As a result, Board visits coordinated with WASC are unrealistic.

But much is happening among the court reporting schools and programs. Over the last four years, 14 court reporting programs in the state of California have closed, which has had some negative impact on pass rates. These business failures and program closures have required many students to transfer to other schools to complete their training. In addition, some school administrators believe that some of the failing schools may have "prematurely qualified" some students to take the CSR exam. Also, some schools require only one qualifier while others require two or more before their students are sent to the CSR exam. While the student failure rate is an area of concern for the BPPVE inspectors,

as well as the BOARD, if schools are planning to close down their court reporting programs, action by either agency could be moot, or could be too little too late for many students.

To determine if there was any negative impact on students from schools with programs scheduled for closure, the research team identified those schools and compared their pass rates on the two 1997 exams to the overall pass rate and the rate of schools with programs still operating. The results of those calculations are shown below.

**Table 5: Pass Rates Closed Schools/Programs vs. Viable Schools/Programs - 1997**

<b>School Type</b>	<b>May 1997</b>	<b>November 1997</b>
Overall Rate	15.92%	14%
Viable Schools	17.44%	16%
Closed Schools	8.8%	6.97%

As the numbers above show, students from schools that subsequently closed down, or were in the process of closing over the last four years, had a significantly lower pass rate on both the 1997 exams which had low pass rates, than examinees from viable schools.

The research team also looked at how examinees from the closing schools and programs performed on the November 1995 and the May 1999 exams, when the overall pass rates were more than 50 percent. The results are shown below.

**Table 6: Pass Rates Closed Schools/Programs vs. Viable Schools/Programs - 1995 & 1999**

<b>School Type</b>	<b>November 1995</b>	<b>May 1999</b>
Overall Pass Rates	51.6%	54.96%
Viable Schools	53.2%	59.6%
Closed Schools	44.9%	39.5%

As table No. 6 indicates, even on the high pass rate exams, students from the schools that were closed or discontinuing their court reporting programs had a lower pass rate than students at the viable schools. This information may indicate that the overall training was not adequate, there is or was “premature qualifying” occurring, or some other factors were affecting the performance of these students on the exam. However, the research team has been unable to identify which of these factors, if any, had a detrimental impact on pass rates.

## **A Look at Court Reporting Students**

Administrators at most schools believe the students themselves may be unintentionally hurting their chances of passing the CSR exam. Many of the students today are single parents who are required to be employed while attending classes, preparing for the CSR exam, and managing their families. The time for practice and training is severely limited because there are so many other demands. As a result, it is difficult for them to focus on their practice and preparation which means longer time in school and more difficulty passing the exam.

In addition, the complexity of this skill set plays a significant role. A reporting student must first learn a new language, machine shorthand writing, then must build their writing speed to over 200 words per minute. Unlike any other profession, these students do not have the luxury of hesitating to think, or to go back and have something repeated. They must write every word they hear verbatim. It is like running in the Olympics every time they write. Like athletes, they have to have the reflexes, instincts, and focus to take perfect notes in that 13 minutes and to produce a transcript with 50 or fewer errors to pass the exam.

In the real world, the judicial system relies on them to hear the testimony once, no matter how complicated, to write it verbatim and to transcribe it correctly. These requirements are the reasons the exam pass point standard is set at 97.5 percent, and why the exam is so stressful.

To the uninitiated, the CSR exam schedule allowing three hours to transcribe 10 minutes of testimony seems more than adequate. But to the examinee, the critical moments are those 13 minutes at 200 words per minute. During that 13 minutes, examinees are expected to hear every word, write it correctly, and identify which of the readers said it. However, if the examinee fails to hear and write the last 10 minutes of the 13 minute dictation correctly, he or she will be unable to produce an accurate transcript, and will not have another opportunity to take the CSR exam for six months.

New technology may also be implicated in the problems some students entering the court reporting profession have. With the advent of “realtime” reporting and other technologies, more training and thus longer time in school are required. As in many fields, the increasing use of computer technology has made the requisite skill set for court reporters more complex. Machine shorthand is essentially a phonetic system. In the past, when a court reporter prepared the transcript by reading her own shorthand notes, it was possible for her to determine the correct form of sound-alike words--e.g. sight, site, and cite--based on context.

Today, the court reporter is required to produce simultaneous translation of shorthand into English using computer-aided transcription systems, and this is known as “realtime.” At present, these computer systems are not capable of distinguishing between homophones. As a result, shorthand theories have become more complex and more difficult to master. Further, misstroked words, similar to typist’s typographical errors,



may not be translatable by the computer which has resulted in the need for an even greater level of mastery. What was previously a 2-1/2 to 3 year commitment is now a 4-1/2 to 5 year educational requirement.

However, the Board understands that while the demands on students have certainly increased over the last 10 years, managing multiple responsibilities and learning new technologies would not be a new phenomenon that would account for the current low pass rates alone.

## **Board Testing Policies and Procedures**

### **Analyzing the CSR Exam**

Since fairness and consistency are the two fundamental requirements of the CSR exam, the research team analyzed the methods used to create the tests.

Actual transcripts that were produced by licensees, form the basis for the material used to test the applicants. But, prior to the test, the four readers replicate the exam process by reading the transcript to one or two recent CSR licensees. The CSRs actually write it on their stenotype machines, as examinees will at the actual exam. Beginning with the May 1999 exam, the Board added an additional step to the pretest process by asking the CSRs to read back their stenographic notes to determine how difficult the test was to write and if it is entry level. To improve the reliability of this new step in the pretest process, beginning with the November 1999 exam the Board will seek three to five recently licensed CSRs to write the pretest. In addition, instead of just reading their notes back, they will be requested to actually transcribe their notes. This may provide a more accurate determination of the level of difficulty. Examinees are not only graded on having the correct words said by the correct speaker, but also on punctuation of the text. The Board believes these steps will help standardize the level of difficulty and reduce pass rate volatility.

In an evaluation of the pre-test process, the research team became aware that the CSR exam itself may in large part be responsible for the low pass rates. Dr. Hertz pointed out that the Board has to ensure that all the tests are equally fair. Since the transcripts used for the tests were never the same type each time (deposition or court proceeding), used different words, required examinees to write numbers and dates, and the subject materials varied (murder trials, accident, or business cases, etc.) they may not be equally difficult for each test group. If the tests are not equally difficult, pass rates would be inclined to be volatile.

To test the level of difficulty among tests, the Board asked Mary Balmages, Department Co-Chair at Cerritos College of Court Reporting, to conduct detailed evaluations of the last four exams. Her review suggests that the tests used may not have been equally difficult. In a letter to the Board, Balmages rated the tests on a scale of one to 10 with 10 being the most difficult and one being the least difficult. Her findings by test date are as follows:

## 1997

### May - Rate of Difficulty - 6

- many sign changes;
- many exchanges when introducing evidence;
- multi-syllabic vocabulary stacked close together;
- long questions with short answers;
- too one-sided.

### November - Rate of Difficulty - 7

- witness uses difficult vocabulary;
- syntax is stilted;
- many short interruptions;
- difficult fingering combination in the transition from word to word.

## 1998

### May - Rate of Difficulty - 3

- Good mixture of colloquy and Q&A;
- interruptions were not too choppy;
- balanced examination;
- good vocabulary.

### November - Rate of Difficulty - 6

- bounced around too much between speakers;
- short, incomplete sentences with sign changes make speaker identification difficult;
- too many proper names.

The findings appear to correlate with the fall of overall pass rates for the 1997 and 1998 tests. Results on the two 1997 tests (15.9 percent and 14 percent) and the November 1998 exam (18.15 percent) were the three lowest since 1980. Of the four tests, only the May 1998 pass rate was in the normal range at 45.6 percent.

Dr. Hertz also suggested that without a post-test evaluation the Board would not be as able to determine the uniformity of its exams. An evaluation after the test would tell the Board why the examinees failed. Post item analysis is used with the two written portions of the exam to see which test questions were too difficult and which were too easy. Typically, the questions identified as too difficult are removed before tabulating the scores and sending out the results.

Another primary concern expressed by Dr. Hertz was the 97.5 percent pass point, which he thought seemed to be an inordinately high standard. At the 97.5 percent pass point, the examinees are allowed 50 errors.

As for the skills portion of the exam, only Nevada uses the same 97.5 percent pass point. Virtually all other states use a 95 percent pass point. Likewise, NCRA uses a 95 percent pass rate for its basic test.

While the Board's 97.5 percent pass rate may seem to be a high standard, 50 errors on the exam equals approximately five errors per page. Lowering the pass rate from 97.5 percent to 95 percent would double the number of allowable errors from 50 to 100 which equals 10 errors per page. The judicial system requires accurate records, not minimally acceptable records, and the Board continues to believe that consumers would find 10 errors on every page of a transcript unacceptable. CSRs who produced that kind of product would not be able to meet the demands of the marketplace, even as entry level reporters.

The Board has historically set the pass points for the three exams. As near as can be determined, these pass points were selected based on the best testing advice available prior to 1980.

### **Other Factors**

Placement of the readers during the test may also be a contributing factor to a higher failure rate among the examinees, according to some school administrators. The examinees must keep track of the identity of each of the four readers and their words in the simulated court proceeding. In a real world setting, judges, defense attorneys, prosecutors and witnesses have assigned positions in the courtroom. Having the readers placed in positions at odds with the setting in which the examinees are trained may distract from the rhythm required to reach the 200 words per minute speed on the exam. As a result, the Board agreed to use the same seating arrangement for the four readers at each exam, and to notify the schools of the new arrangements in advance. This change is expected to eliminate one more cause for anxiety among exam takers.

Other issues such as poor acoustics in the test room were cited by school administrators as a possible contributor to a lower pass rate. However, the Board conducts thorough sound checks of the system prior to each exam and regards this possibility as a fairly remote contributor to the low pass rate.

Examinees at the May 1998 exam also gave their opinions about what they believed might be contributing to the lower pass rates in a Board administered survey. It was designed to find out what impact real-time training was having on their speed during the exam. The Board suspected that real time training might be increasing the difficulty of attaining the required speed, which could be one of the causes of the lower pass rate. Examinees were about equally divided. Of the 108 responding to the question, 51 said they believe real time decreased their speed, 17 said it increased their speed, 39 said it had no impact and one didn't know.

As explained earlier, to write real time for computers, reporters have had to change their writing style significantly. Since real time requires every word to be written the same way each time to provide instantaneous translation using the computer-aided software, examinees may be hesitating momentarily to choose the correct homonym or word form. With enough hesitation, an examinee may make errors or get behind enough during the exam causes them to delete one or more words in order to catch up.

As the Board long suspected, exam takers also acknowledged in the survey that there is a high level of fear and stress associated with taking the CSR exam as it is currently structured, as explained earlier. Of the 51 who added comments to the survey, 17 asked for more frequent testing. Having to wait six months before being re-tested if they don't pass the first time adds another level of stress. They are aware that skills will degrade over time unless they continue to use them daily. Without being in school or actually working, it is more difficult to maintain the requisite skill level.

If the Governor approves the Board's fee increase bill recently passed by the Legislature, increasing the frequency of testing for the English and Professional Practice portions of the exam is entirely possible. Scheduling more frequent dictation testing is more problematic. Creating new exams for each test transcript requires significant development time. New pre-test and post-test procedures also need development and implementation time. In addition, applicants are required to apply six weeks before the exam date and grading is not completed until six-to-eight weeks after the exam. Currently, a six-month window to complete these processes is required. Nonetheless, the Board is exploring ways to decrease these processing times and accommodate more frequent testing.

Another key finding in the survey was how many examinees were in school at the time of the test, how many were out, and how long they had been out of school before taking the test. Of the 204 that responded, 138 were in school at the time of the test and 66 were not. Of the 66 who had not been in school, 55 had been out of school more than three months. Without the practice and discipline the school setting provides, it is extremely difficult for a student to maintain the speed and skills necessary to pass the exam.

### **Recommendations for Improvements**

As required by the Joint Committee, here are the Board's recommendations to improve court reporter education:

#### **Improving Court Reporter Education**

1. Improving school oversight is a key element in improving court reporter education. Since the Board has only the authority to recognize and approve school programs, true oversight and approval of private school operations is in the hands of the BPPVE. The Board and BPPVE are currently developing a Memorandum of Understanding (MOU) to jointly conduct site visits, review curriculum, review labor market analysis, and work cooperatively to ensure that private schools comply with BPPVE and BOARD requirements.

2. Oversight of public schools, such as community colleges, has also been a concern and the Board has identified some gaps in the current process. As a result, the Board recommends that a contract with an outside consultant, such as John Peterson, former Assistant Director of the BPPVE when it was known as the Council for PPVE who is well-versed in school standards and operations, would be appropriate and beneficial.
3. Work with BPPVE to develop a process to rate or rank court reporting schools to provide consumers with the ability to discriminate among schools and their ability to meet or exceed state requirements.
4. Continue to work with BPPVE and the schools to develop a process to refine instructor qualifications and school inspection plans, and improve curriculum.
5. Continue research on the possibility that some schools may have prematurely qualified students for the CSR exam, and if so, design a method to control the practice.

Since there may have been “premature qualifying” going on at programs slated for closure as indicated in Tables 5 and 6 of this report, the Board decided to apply an expiration date on accepting students from schools that plan to close, and voted to pursue adding an expiration date requirement through legislation in 2000.

Moreover, the Board will redesign its survey of examinees to ask how many qualifiers they were required to pass at their school before attempting the exam, and how long it has been since they passed the qualifier. If pass rates for these students continue to be low, and the lack of appropriate qualifying is determined to be a factor, the Board expects to work with the industry and testing experts to find an appropriate remedy.

### **Increasing the Exam Pass Rate**

In addition to improving oversight of court reporting programs at schools, the Board believes there are important improvements that the Board must make to increase the pass rate on the CSR exam. Many of the improvements identified as a result of the research team’s efforts are already underway. Others will require increased resources and more time. Still others require more research and perhaps even a pilot program before full implementation can occur. Here are the recommendations the Board believes will increase the pass rates on the CSR exam, and/or minimize the volatility of the pass rates.

1. Offer the English and Professional Practice portions of the exam on computers each quarter at testing centers in numerous locations. The Board has been exploring the use of computerized testing longer than anyone in DCA, as Dr. Hertz will verify. However, the Board’s current \$40 exam fee is insufficient for the Board to participate in the computerized testing program. In each of the last three legislative sessions, the Board sought fee increases, but they were opposed by the previous Administration. However, this year the Legislature agreed with the Board’s request and passed a fee

increase which is expected to be approved by the Governor. As a result, the May 2000 exam is expected to be the last time the English and Professional Practice will be a pencil and paper exam, and the last time that all three portions of the exam will have to be taken at one time.

2. Continue to schedule the Dictation and Transcription portion of the CSR in May and November but offer the test simultaneously in Northern and Southern California via video conferencing. A pilot test using this method will be conducted during the first half of 2000. In addition, the Board will continue to search for ways to reduce the amount of time required to prepare exams, process applications, and complete grading with the goal of offering the Dictation/Transcription portion of the exam at least three times per year and in more locations.
3. Seat the readers in a standard arrangement in order to recreate a structure that is familiar to the examinees. The new seating will be implemented beginning with the November 1999 test, and the schools have already been notified of the arrangement.
4. Ensure that there is one interruption on every page to page and a half, but not more than three per page in the transcript. This will be implemented and explained to schools prior to the November 1999 exam.
5. Redesign the test preparation process and expand the pre-test evaluation to ensure that tests are more uniform in their degree of difficulty. The Board plans to increase the number of pre-test evaluators from one or two to five, have them transcribe rather than read back notes, and compare the five transcripts for errors. This process is expected to be implemented with the November 1999 exam.
6. Explore the feasibility of replacing the current fixed pass points on each portion of the tests with a criterion referencing methodology that allows adjustment of the pass point appropriate to the difficulty of each test. While this is very appropriate for the English and Professional Practice exams, it may not be appropriate for the skills portion of the exam. Given the nature of this profession, the need for accuracy, the inability of examinees to pause to consider or reconsider their decisions, it is debatable whether using the criterion referencing method would be in the best interest of California consumers. Unlike any other profession, court reporters do not have the luxury of hesitation, deliberation, or approximation. CSRs must write what they hear accurately, immediately, the first time. There is no instant replay. The judicial system is predicated on consumers receiving accurate transcripts of legal proceedings and it is the Board's job to ensure that court reporters meet this minimum competency level.

As a result of the review of the Board's testing procedures, OER has recommended that pass points for the two written knowledge tests--English and Professional Practice--be determined using a criterion referencing method. Pending approval of its Budget Change Proposal (BCP), included as Appendix H, which will provide the necessary funds, the Board expects to implement the new scoring method. The additional funds will be used to find experts in the field to review potential test items

to determine what percentage of candidates would be expected to correctly answer each question. The numbers would then be tallied for each question, then divided by the number of experts on the panel to ascertain a percentage for each question. The totals for all the questions would then be added and divided by the number of questions on the exam, usually 100, to determine the pass point for that exam.

7. Establish a post-test evaluation process to be used when grading begins that will enable the Board to give examinees credit if questionable items are found during the evaluation. The results of the evaluations will be shared with the exam creators so that problem issues can be avoided on future tests. Creation of this process may require a pilot program as it will require recruitment of a group of evaluators, the design and development of appropriate evaluation processes and procedures, and other related activities. As part of the process, a summary of the areas or items examinees were weakest in, or failed to pass, could be shared with schools and instructors.

This process is very labor intensive, however, and cannot be accomplished with volunteers or within existing resources. As a result, a BCP has been submitted for the 2000-2001 fiscal year to initiate this new process.

8. Complete and implement the results of the job analysis with the Office of Exam Resources that is currently planned, pending approval of the 2000-2001 BCP.
9. Continue to explore how new technologies can be used to improve not only the test process, but also the application process that may allow qualified students to make application online. In addition, research how the Board may be able to use technology to decrease the time to score exam transcripts and to notify applicants of their grades.
10. Prior to each exam, conduct a sound test of the exam rooms to determine the quality of the acoustics and install additional speakers for readers, if necessary. The Board will also initiate a one or two minute pre-test warm up reading to allow examinees to hear the voices of the readers prior to the exam.
11. Continue to survey applicants at the exams to measure and adjust, if necessary, the new testing methods.

### **Plan to Offer More Frequent Testing**

As explained in the recommendations portion of this report, the Board has developed and is in the process of implementing a plan to offer the CSR exam as follows:

### **English and Professional Practice**

- Computerized testing of these two portions of the exam is scheduled to begin in the fall and winter of 2000. The May 2000 exam will be the last time the English and Professional Practice will be a pencil and paper exam, and the last time that all three parts are offered at the same time.
- Test centers are currently located in Alameda, Sacramento, San Diego and Diamond Bar in the Los Angeles area, and nine new locations are anticipated by March 2000.
- As applicants are approved to take the exams, Board staff will forward a list of eligible examinees to the exam vendor. Board staff will then forward the vendor's toll-free telephone number to applicants who will call and be able to schedule their exams within 14 days. The vendor will then send applicants the needed information and study guides, which will be developed in conjunction with the Board.
- On the day of the test, examinees will have their pictures taken at the vendor's test site, and that photo will appear on the screen as the examinee takes the tests.
- Initially, the exam will be offered quarterly at any test center. The frequency will be increased as the Board's exam creators build the bank of items used on the tests, and as the number of examinees increases to at least 100 per test. If less than 100 examinees take the test, the vendor charges a \$1,000 penalty. Since the number of examinees taking the test has been declining over the last two years to an average of 170-180 every six months, either the cost of the exam will increase, as it is unlikely that the 100 applicant minimum will be met each quarter in the near future, or the test will have to be used for more than three months.
- The cost the vendor charges for the first exam will be \$33 and the second will cost \$26, if both tests are taken at the same time. However, if the 100 minimum is not met the cost of the test would increase an additional \$10 to cover the \$1,000 penalty assessed by the vendor.
- Examinees will receive their grades immediately at the end of the English and Professional Practice exams.

### **Dictation/Transcription Exam**

One possible method for offering the skills portion of the exam in multiple locations and more frequently would involve using community colleges with teleconferencing capabilities and computer lab facilities. Furthermore, the use of this method would depend on whether the facilities were available to the Board, were affordable, and would meet the needs of the examinees. As a result, the Board is exploring the possibilities with the court reporting schools, their students, and the community colleges.



If the necessary criterion are met, the Board envisions offering the test simultaneously at one location in Northern California and at one location in Southern California via video conferencing. We would continue to offer the test twice a year in Spring and Fall until research on methods to reduce both the application processing time and the time to complete the grading system is completed. The eventual goal would be to offer the exam in several locations three times per year. Here's how:

- Readers would be stationed at one site where they would be videotaped reading the dictation material. This phase could be done live, or in advance. However, new security measures would have to be developed if the dictation is recorded in advance.
- Dictation readings would be telecast to up to five predetermined locations, depending upon the locations of the largest concentration of applicants.
- Examinees would watch the readers on a large screen, rather than live as they do now, and would write the dictated material, just as they do now.
- At the end of the dictation, examinees would be escorted to the computer lab to transcribe their stenographic notes into a printed transcript.
- The printed transcript would be turned in for grading, just as it is now.

This process would have several advantages in that the exam could be offered in multiple locations reducing the number of examinees at each location. Fewer examinees at each location will increase security and decrease the stress among the test takers. The ability to use computers to transcribe their notes, rather than typewriters as currently required, would also be a significant improvement for the examinees.

Assuming discussions with several community colleges are favorable, the Board plans to conduct a pilot program using the method of testing described above during the first half of 2000. The pilot would be conducted at two or three sites using volunteers from the pool of students who have either taken the CSR exam recently, or who are in the qualifying class at their school. The results of the pilot would determine the next step. If it is unsuccessful, a second pilot would be necessary. If it is successful, a date to conduct an actual CSR exam would be set.

If provided the necessary resources, the Board could further build on this process by releasing a Request for Proposal to determine if there are vendors that could develop an electronic method of scoring the examinee transcripts. If feasible, this would dramatically reduce the time it takes to produce the exam scores. Informal discussions with experts in the scoring and technology fields suggest that this is very complex but may be achievable.

### **Need to Increase Exam Fees**

The Board formerly used volunteers to help create the semi-annual exams. But since so many reporting programs have closed, the number of volunteers available and willing to participate has declined significantly. At the suggestion of the OER, the Board devised a plan to pay a small fee to those individuals willing to work on the exam.

In the BCP submitted for the 2000-2001 fiscal year (see Appendix H), the Board requested funds to pay for two complete cycles each year for exam writers and reviewers. The process will require groups of nine each to write, review and set the pass point for the exam.

One committee would write test items, another would review those questions, and a third would score them. As recommended by OER, each committee would have nine members meeting twice each year--once for English and once for Professional Practice. The Board is proposing to pay each committee member up to \$200 per day plus travel expenses and per diem for meals. The cost for this program is estimated to be approximately \$90,000 annually.

In the Omnibus bill passed by the Legislature and pending before the Governor, the Board is authorized to raise the exam fee to a maximum of \$75 per section, per administration. As a result, examinees could pay \$75 each for the English, Professional Practice, and the Dictation/Transcription portions of the test each time they take them. However, as explained earlier, the new computerized English and Professional Practice portions of the exam will cost \$33 for the first test and \$26 for the second test taken at the same time. However, these fees may increase by \$5 to \$10 each if the minimum number of 100 examinees per test is not achieved. The fee for the Dictation/Transcription portion of the exam has not yet been determined. It will be based, in large part, on the fees the community colleges charge the Board for the use of their facilities.

## **PART 3.**

### **Court Reporters Board of California**

#### **BACKGROUND PAPER FOR 1999 PUBLIC HEARING**

##### **Identified Issues, Background Concerning Issues, Staff Recommendations and Questions for the Board**

**PRIOR SUNSET REVIEWS:** The Joint Legislative Sunset Review Committee (JLSRC) initially reviewed the California Court Reporters Board (CRB or Board) four years ago (1995-96.) At that time, the JLSRC recommended continuation of both licensure of certified shorthand reporters and administration of the state's licensing program by the Board, rather than transferring authority to the Department of Consumer Affairs (Department). However, because of concerns regarding several areas regulated by CRB, including low passage rates on the Board's licensing exams and the quality of educational preparation offered by court reporting schools, the JLSRC recommended that the Board be re-reviewed in two years. This recommendation was enacted by SB 2031 (Ayala, Chapter 1136 – Statutes of 1996)

The re-review of the Board took place during 1997-98. At that time, the Department and Administration were recommending elimination of state licensure of certified shorthand reporters and the Board - in favor of establishment of a private certification program that met specified criteria. Despite this fact, the JLSRC recommended continuation of state licensure and continuation of the Board as the licensing agency, until July 1, 2001. However, the JLSRC also recommended that the Board report to the JLSRC within three years regarding its examination and education provided by court reporting schools. It specifically recommended to the CRB to: (1) conduct an assessment of all possible causes for the low passage rate on its licensing exam; (2) present that assessment together with the Board's recommendations for improving the passage rate to the JLSRC; (3) present a plan for providing both the written and dictation portions of the licensing exam more than twice per year; and, (4) substantiate the need to increase the examination fee. These recommendations were enacted by SB 1980 (Greene, Chapter 991 – Statutes of 1998) which required that the Board report to the JLSRC by October 1, 1999.

This current review of the Board by the JLSRC is focused on the report presented by the Board regarding its licensing examinations, and the quality of educational training being received by students attending court reporting schools.

## **CURRENT SUNSET REVIEW ISSUES:**

### **ISSUE #1: THE EXAMINATION PROVIDED BY THE BOARD TO APPLICANTS FOR LICENSURE HAS A HISTORY OF BOTH INCONSISTENT AND VERY LOW PASSAGE RATES.**

#### **BACKGROUND:**

##### **Qualifications necessary to become a Certified Shorthand Reporter (CSR).**

Applicants for licensure as certified shorthand reporters in California must meet all of the following requirements:

- 18 years of age or older;
- Be a high school graduate or have the equivalent;
- Successfully complete written examinations in English, including grammar, punctuation and vocabulary with a minimum grade of 70 percent, plus a professional practice exam covering legal terms, medical terminology, and law with a minimum grade of 75 percent;
- Successfully complete a practical examination involving the reporting of dictated material taken from an actual court or deposition proceeding, which is read live at 200 words per minute for 13 minutes by four readers;
- Successfully transcribe the designated 10-minute portion of the exam within a three-hour period, and achieve a minimum 97.5 percent accuracy rate.

In addition to meeting the above criteria, applicants must qualify to sit for the Certified Shorthand Reporter examination through one of five methods. Most applicants qualify to take the CSR exam by completing a training program through a recognized California court reporting school. These programs are typically 3-1/2 to 5 years, full-time, featuring Board-approved curricula, and include a required apprenticeship-type, unpaid training for 50 hours (Board Regulation 16 CCR 2411).

Besides qualifying through attending a court reporting school, licensure applicants may qualify by one of the following four alternative methods:

- Verification of at least one year of work experience submitted on official stationery of the employer(s).
- Verification via a copy of the State Personnel Board's pass letter indicating a passing grade on the California State Hearing Reporters examination.
- Copy of certificate of proficiency or merit from the National Court Reporters Association originally issued within the last five years.
- Copy of valid Certified Shorthand Reporters certificate or license from a state other than California originally issued within the last five years.

Qualifying work experience is not required and seldom is completed under the supervision of a licensed certified shorthand reporter (CSR), or other licensed professional, as most reporting assignments are conducted with one reporter in various remote locations.

CSR applicants from another state can qualify to take the California exam by having one year or more of experience, or a license from certain other states. While the National Court Reporters Association has considered a national uniform model for licensure, primarily using California's law, none has been developed or implemented as yet.

**Description of the Certified Shorthand Reporter (CSR) Examination.** The practice of court reporting requires knowledge of the English language and its rules, the law and judicial system, and the ability to write fast and accurately on the stenotype machine. These three components are covered in the semi-annual CSR license examination. The CSR exam is a three-part examination. Part I is English, and Part II is Professional Practice, which consists of legal and medical terminology as well as knowledge of the law. Both are multiple choice type tests consisting of 100 items each. Part III is a practical demonstration of dictation and transcription skills.

The practical dictation and transcription portion is developed anew for each test cycle from actual transcript material taken in depositions or court proceedings. Using the transcript material modified by the procedure outlined below, four live readers dictate at the rate of 200 words per minute for 12-to-13 minutes. In addition to writing the material on their stenotype machines, examinees are required to transcribe the notes of the last 10 minutes of the dictation within a three-hour period.

The Board's three licensing examinations (English & Professional Practice written exams, & practice/dictation skills exam) are conducted twice a year – once in May in Northern California and in November in Southern California. More than 300 applicants take the test each time, but all must meet certain requirements and minimum qualifications before being admitted to the exam. The Board does not grant reciprocity to any state or country. Applicants have three years, or seven test cycles, to pass all three parts of the exam before they are required to take the entire exam again. They may take or retake portions of the exam they fail every six months. During the three-year period, they are required to take only the previously failed portions of the exam.

The Department's Office of Examination Resources completed an occupational analysis study for the Board's licensing examinations on November 1995. The results of this analysis were to be used as the basis for the examination program for CSRs. The Board adopted the results of this study at its January 1996 meeting. (The Board indicates that another occupational analysis is planned, pending approval of a BCP for FY 2000/01.)

**Problems with the current CSR examination identified by JLSRC and the Board.** Official inquiry by the JLSRC began after the overall pass rate on the CSR examination dropped to 22 percent on the May test in 1996, and to 16 percent on the May test and 14 percent on the November test in 1997. (The rate shot up to 45 percent in May 1998 and then down to 18 percent in November 1998, and back up to 56 percent in May 1999.) Information provided by the Board showed that the pass rates on the English and Professional Practice portions of the test have always been above 60 percent and have been consistently above 70 percent. It has been the Dictation and Transcription (skills)

portion of the exam that has historically posed the pass rate dilemma. The Board indicated that the low pass rate and its volatility have remained a concern for the Board, as well as for court reporting schools, exam experts and the Joint Committee.

The JLSRC recommended that the Board present to the Committee by October 1, 1999 an assessment of all of the possible causes of the low pass rate for its exam and make recommendations on ways to improve the pass rate, and whether parts of the CSR examination could be offered more often than twice per year. It recommended that it work with the Bureau of Private Postsecondary and Vocational Education (BPPVE), court reporting school officials, and the Department's Office of Examination Resources to identify the causes of low pass rates on the CSR examination.

In response to this recommendation, the Board developed a research team of representatives of the groups and organizations mentioned by the JLSRC. The team gathered and analyzed information from a variety of sources and concluded that the low passage rate is due to a complex set of factors, including:

- lack of uniform difficulty on the three-part exam;
- insufficient "pre-testing" of the Dictation/Transcription portion of the exam;
- insufficient post-exam analysis;
- "premature" qualifying of candidates sitting for the exam by some court reporting schools (particularly those anticipating imminent school closure);
- inadequate training at some court reporting schools;
- stressful circumstances caused by first-time candidates taking all three parts of the CSR exam at the same sitting (and the 6 month wait before being able to take another exam);
- lack of oversight at court reporting schools.

As a result of the findings made by the CRB, the Board and its research team made a number of recommendations.

**The Board has recommended taking the following actions to improve the passage rate on its CSR examination:**

- Offer the English and Professional Practice portions of the exam on computer each quarter at testing centers in numerous locations around the state.
- Continue to schedule the Dictation and Transcription part of the CSR exam in May and November, but offer it simultaneously both in Northern and Southern California via videoconferencing or other similar technology.
- Seat the dictation readers in standard courtroom seating to recreate a location structure that is familiar to most examinees who have taken qualifying exams in CSR schools.
- Ensure that there is at least one interruption on every page to page and a half, but not more than three interruptions per page in the dictated transcript in order to clarify parameters
- Redesign the test preparation process and expand the pre-test evaluation to ensure that tests are more uniform in their degree of difficulty.

- Explore the feasibility of replacing the current fixed pass points on each of the tests with a criterion referencing methodology that provides for adjustment of a pass point appropriate to the difficulty of each test.
- Establish a post-exam evaluation process to remove questionable items before grading and to avoid problems on future exams.
- Complete and implement the results of the occupational analysis planned by the Department's Office of Exam Resources – pending approval of the Board's 2000/20001 BCP.
- Continue to explore the use of new technologies to streamline the exam application and grading process, and the time to notify examinees of exam results.
- Conduct a sound test of examination rooms prior to each Dictation and Transcription exam to test acoustics and install additional loudspeakers if necessary.
- Continue to survey examinees regarding exam problems and adjust new testing methods if necessary.
- Offer the CSR exams more frequently than twice a year (to at least three times a year) and offer the exam in more locations around California.

**QUESTION #1 FOR THE BOARD:** *What efforts has the Board made to review its current examination and what recommendations does the Board have to improve its passage rate? Does the Board plan to have an occupational analysis performed on this test within the next year, since the last analysis was conducted in November 1995?*

**ISSUE #2: COURT REPORTING SCHOOLS MAY NOT BE PROVIDING THE APPROPRIATE LEVEL OF EDUCATION FOR THEIR STUDENTS, AND MAY HAVE PREMATURELY QUALIFIED STUDENTS TO SIT FOR THE BOARD'S EXAMINATION.**

**BACKGROUND:**

**Approval and oversight of court reporting schools by the Board.** Under Section 8027 of the Business and Professions Code, the Board has very broad authority to "recognize" or approve court reporter training schools. It shall assure the school is providing the minimum prescribed course of study established by the Board pursuant to Section 2411 of the California Code of Regulations, review proposed curriculum, provide tentative and final approval for recognition, or a notice of denial, and inspect and investigate schools as necessary to carry out these requirements. In 1996, the legislature also passed a bill sponsored by the CRB to grant it responsibility for ensuring qualification of instructors at court reporting training schools.

The Board has indicated that it will make scheduled or unannounced site visits to schools to evaluate whether schools should receive continued recognition and that they are complying with the respective law and regulations. The process includes site visits to review school programs including:

- curriculum
- faculty qualifications and numbers
- facilities used, and
- student records

In addition, the director of a CSR program completes a pre-review manual, which is reviewed by the Board's Executive Officer. The Executive Officer verifies the information from the school during a site visit, which also includes observations of classes in progress, as well as interviews with students and faculty staff. Student files and records of satisfactory progress are checked as are instructor qualifications, recruiting materials, and claims presented to students.

Recognized programs offer an extensive course of instruction as required by the Board that is generally completed in 42 to 60 months, or three and a half to five academic years. Full-time and part-time programs are recognized and include a minimum of:

- 215 hours of English
- 125 hours of Medical terminology, physiological and anatomical systems
- 175 hours of law and legal terminology
- court and deposition procedures
- ethics of the court reporting profession
- 60 hours of transcript preparation, and
- 50 hours of apprenticeship training

**Problems with the education and training provided by court reporting schools.** The Board basically identified three factors regarding court reporting schools that may be contributing to the low pass rate of its examination. The first involves the Board's limited oversight authority over schools, the second concerns the impact of school closures, and the third involves the ability of students (or lack thereof) to pass the CSR exam even if they complete the required course of study.

1. Problems with CRB's oversight responsibility. The Board indicated that it has very limited authority to recognize and approve school programs, and that true oversight and approval of private school operations is in the hands of the Bureau for Private Postsecondary and Vocational Education (BPPVE). Likewise, there appears to be a gap in the oversight of court reporting programs at public institutions, and that the Chancellor's Office will approve entire programs within community colleges without consulting with the Board.
2. Impact of court reporting school closures. In the last four years, the number of schools has dropped dramatically due to severely declining enrollment of students in the court reporting profession. Currently there are only 22 court reporting schools in



the state, down from 37 in 1994. In addition, some of these remaining schools are struggling to survive with enrollments down by approximately 2/3 over the last four years. The Board believes, as do some court reporting school faculty and administrators, that schools planning on closing their doors may prematurely "qualify" students to take the CSR exam to clear their enrollments before closure. As a result, the premature qualifying, and some of the training being provided by the court reporting schools in California, may have been a factor in the high failure rate on the CSR test in the last two years.

3. Ability of students (or lack thereof) to pass the CSR exam. As indicated by the Board, administrators at most schools believe the students themselves may be unintentionally hurting their chances of passing the CSR exam. Many of the students today are single parents who are required to be employed while attending classes, preparing for the CSR exam, and managing their families. The time for practice and training is severely limited because there are so many other demands. As a result, it is difficult for them to focus on their practice and preparation which means longer time in school and more difficulty passing the exam.

New technology may also be implicated in the problems some students entering the court reporting profession have, as explained by the Board. With the advent of "real-time" reporting and other technologies, more training and thus longer time in school are required. What was previously a 2-1/2 to 3 year commitment is now a 4-1/2 to 5 year educational requirement.

However, the Board understands that while the demands on students have certainly increased over the last 10 years, managing multiple responsibilities and learning new technologies would not be a new phenomenon that would account for the current low pass rates alone.

**In light of these factors, the Board made the following recommendations to improve the quality of education at court reporter schools:**

- Improve oversight at private schools and at public schools by contracting with a knowledgeable consultant.
- Work with the Bureau of Private Postsecondary and Vocational Education (BPPVE) of the Department of Consumer Affairs to develop of process to rate or rank court reporting schools.
- Work with the BPPVE to develop a process to refine instructor qualifications, school inspection plans, and improve curriculum.
- Continue researching the possibility that some schools may have "prematurely qualified" students to take the CSR exam.

Further, in response to the decline in the number of reporting schools and impending closure of additional schools, the Board is seeking legislation to specify that reporting schools shall have two years to discontinue or to phase out its court reporting program – which two years could be extended for two additional one-year periods for good cause. For schools that are contemplating closure, the Board believes that specifying a time period in which a school would have to close its program will assure that the school will

continue to offer all their students the entire court reporting curriculum and not just a portion thereof.

Although these three factors, as described by the Board, may be contributing to the low pass rate of the CSR examination, it is not clear whether the Board and its research team dealt directly with this issue, and what ultimate responsibility the Board may have in ensuring that students at these schools are receiving the appropriate training and education necessary to pass the required state examination, and whether their recommendations will assure quality education and training of court reporter school students in the future.

**QUESTION #2 FOR THE BOARD:** *What efforts has the Board made to review the quality of training and education provided by schools and ensure qualification of instructors at court reporting schools. What recommendations does the Board have to improve court reporter education? Does the Board believe that the number of court reporting schools will continue to decrease and will this cause future hardships for students, candidates, and the judicial system? Please explain exactly how mandating a phase out time limit for schools will provide protection to the students and assurance that students will receive a complete program of court reporting training?*

**ISSUE #3: IT IS UNCLEAR WHAT DISTINCT AUTHORITY THE BOARD HAS OVER COURT REPORTING SCHOOLS, AND WHAT ACTION IT HAS TAKEN, WILL TAKE, OR CAN TAKE IF PROBLEM AREAS ARE IDENTIFIED, OR NON-COMPLIANCE WITH BOARD REQUIREMENTS ARE FOUND.**

The current law authorizes the Board to carry out inspections (site visits) and investigations as necessary to carry out its responsibilities duties regarding recognition of court reporting schools. As indicated by the Board, they will conduct site visits on a scheduled or unannounced basis. Scheduled visits are used to evaluate support for continued recognition of programs that comply with the respective law and regulations. If areas of non-compliance are found during a visit, the discrepancies are identified and corrections are discussed with the director. A reasonable time to correct the deficiencies is allowed. Unannounced visits are made when the Board suspects that significant problems exist within a program. Consumer complaints, information, or evidence from the school or another state agency may spark the unannounced visits, which allow the Executive Officer to observe the program in its actual operating mode.

Like many other "recognized" training programs, accreditation or approval is often granted by a number of agencies, which all look at various areas of an educational program. Federal accrediting agencies generally ensure compliance with federal regulations for the purpose of establishing eligibility for federal funds. Often this eligibility includes approval by the Bureau for Private Postsecondary and Vocational Education (BPPVE), the rate of defaulted student loans, accounting records, and student complaints.

According to the Board, it has been instrumental in promoting joint program site visits with the BPPVE, the California Student Aid Commission, and occasionally, an accrediting agency. Since Board, Council, and Commission regulations are viewed as complimentary, each agency addresses critical parts of the educational offering with minimal to no overlap. The process facilitates the identification of myriad areas of potential noncompliance.

Even though the Board makes site visits to schools to verify that they comply with all requirements, it indicates that it has very limited authority, primarily over the minimum curriculum requirements. The Board believes that there should be greater coordination between the Board and the BPPVE, or other agencies that have approval authority over the school's operations, especially community colleges. (However, over the last 18 months, the BPPVE has been involved in a major restructuring and reorganization due to its sunset as a state commission and its transfer to the Department of Consumer Affairs as a bureau. As a result, site visits have not been made.)

Likewise, the Board believes there is a gap in the oversight of court reporting programs at public institutions. While the Community College Chancellor's Office approves entire departments and schools, the Board states that such approval does not involve site visits that are coordinated with the Board. Neither the chancellor's Office, nor the Western Association of Schools and Colleges (WASC) look at small programs like court reporter training when they review a community college, according to the Board. As a result, the Board believes that site visits coordinated with WASC are unrealistic.

**QUESTION #3 FOR THE BOARD:** *What has been the number of announced and unannounced site visits by the Board each year over the past two years. The number of combined visits with BPPVE? Once approved, are periodic site visits made, and if so, how often? What significant problems has the Board identified (e.g., prematurely qualifying students? What action has the Board taken if problems were identified, or when there were areas of non-compliance? Should the Board relinquish its authority over court reporting schools to BPPVE, and if not, why not? What agreements have been reached with BPPVE to ensure that schools comply with BPPVE and Board requirements?*

**ISSUE #4: IT IS UNCLEAR WHETHER THE BOARD WILL HAVE SUFFICIENT FUNDS TO IMPLEMENT RECOMMENDATIONS IT HAS MADE TO IMPROVE ITS EXAMINATION AND OVERSIGHT OF EDUCATION PROVIDED BY COURT REPORTING SCHOOLS.**

**BACKGROUND:** In order to comply with the statutory mandate that it evaluate its licensing exams and the quality of court reporting education, the Board put together a research team of representatives from the Board, the Bureau of Private Postsecondary and Vocational Education, court reporting schools, and the Department of Consumer Affairs' Office of Examination Resources (OER). The resulting evaluation has led the Board to

make a series of recommendations for improving the passage rate on its examinations as outlined in this paper.

It appears that the Board's current statutory authority and budget have enabled it to implement some of these recommendations already, with others to be implemented as a part of next year's exams. The Board received authority this year through legislation to raise its examination fee, to cover their costs (up to \$75 per exam.) It is not clear how many of the Board's recommendations for improvement can be accomplished within its existing budgetary resources and what recommendations will require that the Board receive additional expenditure authorization from the Legislature.

**QUESTION #4 FOR THE BOARD:** *Will the Board have sufficient funds necessary to implement all of the recommendations made in its report, and has it taken the steps necessary to obtain adequate funding, such as submitting Budget Change Proposals*

## **PART 4.**

### **Court Reporters Board of California**

#### **BOARD'S RESPONSE TO ISSUES AND RECOMMENDATIONS FROM 1999/2000 SUNSET REVIEW**

##### **Issue #1: The Exam's Volatile Pass Rate**

With the help of the Department's Office of Examination Resources, the Bureau of Private Postsecondary and Vocational Education, and members of the court reporting educational community, the Board searched for possible causes for the low, and sometimes volatile pass rate, primarily on the dictation portion of the exam. Among the items we studied, was the process we have been using to create and administer the current examination. In our research, we uncovered numerous items that we believe may be contributing factors, but no single reason explained the variance in the pass rate. Those factors include:

- Insufficient pretesting to determine difficulty of each test
- Possible premature qualifying of candidates by some court reporting schools
- Extraordinary level of stress due to the candidate's realization that a 10 minute window of time is all one has to hear the dictation correctly and write it down correctly.

As a result, the Board implemented the following changes at their November 1999 licensing exam:

- Providing a one-minute warm-up for candidates prior to the beginning of the Dictation portion of the exam;
- Using the same seating arrangement familiar to the candidates.
- Reducing the number of speaker interruptions per page to one for every page to page and a half rather than three for every page; and
- Improving the pre-test design to increase the number of evaluators from one to five, and requiring the evaluators to produce the actual transcript, as the examinees are required to do, rather than just reading back from their notes.

Although the test results are not yet available from the November 1999 exam, the feedback we have received from candidates has been very positive.

We are also planning to reduce the stress for examinees by converting the English and Professional Practice portions of the exam to the new computerized methods and offering them at least quarterly. That conversion will begin next year.

And, to answer the third part of your question, the Board plans to conduct a new occupational analysis this year, having submitted a Budget Change Proposal for Fiscal Year 2000-2001 to fund this study.

We believe these changes, as well as converting two of the three portions of the test to computerized testing and offering them quarterly plus offering the third section, Dictation in the form of teleconferencing in the future, should have a positive effect on the pass rate.

## **Issue #2: Court Reporting Schools**

In 1998, the Board convened a School Curriculum Committee to review the current Board-approved curriculum to make sure it was relevant to today's workplace. The committee made several recommendations to the Board, which were placed into proposed regulations that are expected to be approved and take effect in the first quarter of 2000. Those recommendations and the proposed regulations include:

- holding the schools more accountable in preparing their students for the licensing exam and general practice;
- replacing outdated language with current knowledge, skills, and abilities including court and deposition procedures, ethics and professional practice, legal research and the California Codes, job preparation, and increasing the number of hours of instruction on technology; and
- specifying that the school's reference library contain the tools needed to practice court reporting in today's world.

The Board also successfully sponsored legislation in 1996 that specifies minimum instructor qualification, and we confirm compliance with those qualifications during visits conducted in a three-year cycle.

The Board has recently implemented a "trip-wire" mechanism, whereby a school is automatically reviewed, if it produces a succession of low pass rates. Schools with a 3-year successive low pass rate, defined as the median pass rate falling below one standard deviation from the norm, trigger an unscheduled site visit.

In addition to the items listed above, the Board has initiated a Memorandum of Understanding with the newly reorganized Bureau of Private Postsecondary and Vocational Education to conduct cooperative site visits at private court reporting schools. We believe that this joint effort will improve court reporting education because it will provide greater uniformity, and may lead to a prototype school inspection model that could be used to review public court reporting schools as well. The strength of this MOU is based on the foundation that the Board is better equipped to establish court reporting curriculum, assess instructor qualifications, and gauge a school's ability to keep pace with the changing profession. The Bureau, by contrast, has its strength in the general overview of site visitations, looking at organizational structure and financial operations.

It appears that the decline in the number of programs and schools offering court reporter training has leveled off. However, enrollment in the existing programs is low nationwide. As a result, the court reporting educational community is conducting a nationwide recruitment program to attract more students to the profession which is on the verge of a labor shortage. That recruitment program includes California.

I'd like to also point out that the decline of reporting programs is a cyclical event. A shortage also loomed for this profession in the mid-1980s. And, as a result, the professional court reporting organizations began a recruitment program that attracted many new students. That led to a demand for court reporting programs and schools responded to that need.

In the short run, there may be some hardship on the judicial system, and new students looking for court reporting programs close to their homes. As new students are recruited, the Board and members of the profession believe there will be increased demand for court reporting programs, and that existing schools and new schools and programs will be created to meet that demand. However, since the decline in programs has leveled off, the Board believes current students have adapted and are being adequately served.

### **Issue #3: Board's Authority Over Schools**

Over the last two calendar years, the Board has made site visits to seven court reporting schools. All of the visits were announced. Currently, the Board's policy is to make unannounced site visits when it receives a complaint that calls into question the quality of the program. All but two of the seven site visits were to community colleges. The BPPVE was not involved in these seven visits because they do not have jurisdiction over public schools and one private school we visited during the last two years is accredited by the Western Association of Schools and Colleges. The visit to the other private school, which is now closed, was conducted in conjunction with the Student Aid Commission rather than the BPPVE, which was in the midst of a major reorganization and overhaul and was unable to commit to site visits.

It has been my habit and practice to work with both the BPPVE and the Student Aid Commission to coordinate site visits. But, as you know, both agencies have undergone significant change, reorganization and restaffing in recent years, and they have been unable to participate in site visits. However, we are now in the process of renewing our relationships and are restoring our previous, cooperative site visit procedure to ensure that schools comply with BPPVE and Board requirements.

***Once "provisional recognition" is granted to a school, the Board schedules visits approximately every three years thereafter unless concerns arise which would trigger additional visits. If after the first three-year period, a school has met all of the Board's requirements, it is granted "full recognition." If all requirements are not met, the school is placed on "probation" for a specified period, usually one year, and a second site visit is scheduled. Under these circumstances, two schools were recently closed.***



The Board followed up on information that some schools prematurely qualified some students to take the exam. To try to prove or disprove this theory, the research team examined the pass rates at schools with closing program and found that the pass rates for those schools were indeed lower. However, the research team could not conclusively attribute those low pass rates only to premature qualifying.

In spite of that, we are now collecting data via a survey at each exam to determine how many qualifiers examinees took before sitting for the test and how long ago those qualifiers were taken.

The Board does not believe it would be in the best interest of consumers or court reporting students to relinquish its authority over court reporting schools. It is important that the Board stay as close to the elements that shape this profession as possible to understand its complexities and to make certain that the training will ensure that CSRs will be capable of meeting the mandates set in law. Separating the authority over court reporting schools would detach the Board from evaluating and influencing court reporter training. This would cause a major disconnect between the training side and the actual practice of court reporting.

#### **Issue #4.**

Since the Board submitted its Sunset Review Report on October 1, the Omnibus bill allowing the Board to increase exam fees to pay for new, computerized testing has been signed by the Governor. In addition, the Board has submitted its Budget Change Proposal to pursue funds for the new job analysis and other related improvements.

## PART 5.

### Court Reporters Board of California

#### FINAL RECOMMENDATIONS OF THE JOINT LEGISLATIVE SUNSET REVIEW COMMITTEE AND THE DEPARTMENT OF CONSUMER AFFAIRS

**The Following Recommendations were Adopted by the Joint Legislative Sunset Review Committee on April 11, 2000 by a Vote of 5 to 0:**

**ISSUE #1.** (CONTINUE REGULATION OF THE PROFESSION?) Should the licensing and regulation of Court Reporters be continued?

**Recommendation #1:** *The Joint Committee and the Department recommends continued state regulation of court reporters.*

**Comments:** Court reporters provide an essential and highly skilled service to the judicial system. Ongoing regulation is necessary to protect the public and ensure proper judicial review of court proceedings. Given the importance of court reporters to the legal profession, the Joint Committee and the Department recommends that court reporters continue to be regulated.

**ISSUE #2.** (CONTINUE WITH THE BOARD?) Should the Board be continued, or its role be limited to an advisory body and the remaining functions be transferred to the Department?

**Recommendation #2:** *The Joint Committee and the Department recommends retaining the Board as the governing structure for regulation of the court reporting profession.*

**ISSUE #3.** (DO APPLICANTS FOR LICENSURE RECEIVE THE APPROPRIATE TRAINING AND EXPERIENCE TO SIT FOR THE BOARD'S EXAMINATION?) The examination provided by the Board to applicants for licensure has a history of both inconsistent and very low passage rates. It is unknown whether this is due to inadequate school-based training, lack of qualifying work experience, or other alternative methods to licensure which may not adequately prepare applicants to sit for the Certified Shorthand Reporter examination.

**Recommendation #3:** *The Joint Committee and the Department recommends that the Board conduct an analysis of the exam passage rate, relative to the different licensing pathways, to determine which candidates are better prepared for the state examination. This should provide evidence of whether court reporter schools are adequately preparing students to pass the licensing examination, or whether other requirements for licensure may have to be changed.*

**Comments:** While the Joint Committee focused on the quality of education and training provided by court reporter schools, it is important to note that not all candidates qualify for the court reporter licensing exam through schools. Therefore, the low examination passage rate for court reporters involves more factors than just the quality of training programs. Nonetheless, the Board does appear to have the authority to address applicant eligibility by prescribing and evaluating the qualifications of candidates to take its licensing examination. Specifically, the Board is authorized to “seek from any applicant any other information pertinent to the background, education, and experience of the applicant that may be deemed necessary in order to evaluate the applicant's qualifications and fitness for licensure.”

The Board is required to compile and publish examination passage rate data relative to its examination, including (1) the numbers and percentage of candidates who qualify to take the examination via each specified licensing pathway, and (2) the passage rate for each of the pathways to qualification. Careful analysis of this data would help the Board assess which candidates are better prepared for the licensing examination. For example, the Board could determine if a candidate who qualifies based on experience has a better or worse chance of passing than a candidate who qualifies through reciprocity with other states, or a candidate who qualifies through school based training. Therefore, the Department recommends that the Board conduct this analysis and determine whether court reporter schools are adequately preparing students to pass the licensing examination.

#### **ISSUE #4.** (IMPROVE OVERSIGHT OF COURT REPORTER SCHOOLS?)

The Board indicated that it has very limited authority over court reporting schools, and believes that better coordination is needed with the Bureau for Private Postsecondary and Vocational Education (Bureau) which has approval authority over the school's operations. This is untrue. The Board's regulatory authority with respect to all schools and instructors is quite clear. Thus, it would appear that the Board needs to be more aggressive in its application of its existing authority. However, given the Bureau's expertise with school oversight, better coordination of the activities of the Board and the Bureau may be appropriate

**Recommendation #4:** *The Joint Committee and the Department recommends supporting the current effort to coordinate the activities of both the Board and the Bureau by entering into a Memorandum of Understanding (MOU). The Legislature*

*should also consider making court reporter school training schools subject to the course completion and placement requirements that currently apply to other training schools subject to Bureau jurisdiction.*

**Comments:** The Board's regulatory authority with respect to all schools and instructors is quite clear. Thus, it would appear that the Board needs to be more aggressive in its application of its existing authority. While the Bureau for Private Postsecondary and Vocational Education (Bureau) has general authority over all private postsecondary professional/vocational schools, the Bureau typically defers to the applicable Department licensing program when its standards are more specific. However, given the Bureau's expertise with school oversight, the Department recommends supporting the current effort to coordinate the activities of both the Board and the Bureau.<sup>1</sup> Furthermore, the Legislature should consider making court reporter training schools subject to the course completion and placement requirements that currently apply to other training schools subject to Bureau jurisdiction.

**ISSUE #5. (SHOULD OTHER CHANGES BE MADE TO IMPROVE COURT REPORTER EDUCATION AND THE BOARD'S EXAMINATION?)** The Board made a number of other recommendations to improve court reporting education and the passage rate of its examination.

**Recommendation #5:** *The Board should implement recommendations made to the Joint Committee and Department for increasing the exam passage rate and improving court reporter education .*

**Comments:** The Board has recommended taking the following actions to improve the passage rate on its CSR examination:

- Offer the English and Professional Practice portions of the exam on computer each quarter at testing centers in numerous locations around the state.
- Continue to schedule the Dictation and Transcription part of the CSR exam in May and November, but offer it simultaneously both in Northern and Southern California via videoconferencing or other similar technology.
- Seat the dictation readers in standard courtroom seating to recreate a location structure that is familiar to most examinees who have taken qualifying exams in CSR schools.
- Ensure that there is at least one interruption on every page to page and a half, but not more than three interruptions per page in the dictated transcript in order to clarify parameters
- Redesign the test preparation process and expand the pre-test evaluation to ensure that tests are more uniform in their degree of difficulty.

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<sup>1</sup> Both the Board and Bureau have recently begun work on a Memorandum of Understanding (MOU) to establish a coordinated approach to their joint responsibility for court reporting schools. The MOU will provide for joint site visits, sharing of technical expertise, statute and regulation review, as well as elimination of overlap and redundancy in the two programs. The MOU should be completed by the end of June 2000.

- Explore the feasibility of replacing the current fixed pass points on each of the tests with a criterion referencing methodology that provides for adjustment of a pass point appropriate to the difficulty of each test.
- Establish a post-exam evaluation process to remove questionable items before grading and to avoid problems on future exams.
- Complete and implement the results of the occupational analysis planned by the Department's Office of Exam Resources – pending approval of the Board's 2000/20001 BCP.
- Continue to explore the use of new technologies to streamline the exam application and grading process, and the time to notify examinees of exam results.
- Conduct a sound test of examination rooms prior to each Dictation and Transcription exam to test acoustics and install additional loudspeakers if necessary.
- Continue to survey examinees regarding exam problems and adjust new testing methods if necessary.
- Offer the CSR exams more frequently than twice a year (to at least three times a year) and offer the exam in more locations around California.

The Board made the following recommendations to improve the quality of education at court reporter schools:

- Improve oversight at private schools and at public schools by contracting with a knowledgeable consultant.
- Work with the Bureau of Private Postsecondary and Vocational Education (BPPVE) of the Department of Consumer Affairs to develop a process to rate or rank court reporting schools.
- Work with the BPPVE to develop a process to refine instructor qualifications, school inspection plans, and improve curriculum.
- Continue researching the possibility that some schools may have “prematurely qualified” students to take the CSR exam.

Further, in response to the decline in the number of reporting schools and impending closure of additional schools, the Board is seeking legislation to specify that reporting schools shall have two years to discontinue or to phase out its court reporting program – which two years could be extended for two additional one-year periods for good cause. For schools that are contemplating closure, the Board believes that specifying a time period in which a school would have to close its program will assure that the school will continue to offer all their students the entire court reporting curriculum and not just a portion thereof.